REMARKS

This Amendment filed with a Request for Continued Examination (RCE) is in response to the Final Office Action mailed on April 21, 2005. The responses are in the order in which the issues are raised in the office action.

With respect to the Rule 132 Declaration filed to remove US Patent No. 6,775,284, Calvignac, as prior art, it is deemed insufficient. In particular, the Examiner states: ". . . there is no showing that the objective evidence of nonobviousness is commensurate in scope with the claims". See office action, page 2.

In response, applicants first argue the Examiner's statement of nonobviousness appears to be irrelevant since the rejection is under 35 U.S.C. 102(e) and not a 103 type rejection with which obviousness is usually associated. In addition, applicants respectfully disagree with the Examiner and argue that the declaration is sufficient to remove the Calvignac reference. In particular, MPEP 716.10, Rev. 2, May 2004 (page 700-269) in part states: "An uncontradicted unequivocal statement," from the applicant regarding the subject matter disclosed in an article, patent, or published application will be accepted as establishing inventorship. In re DeBaun, 687 F.2d 459, 463, 214 USPQ 933, 936, (CCPA 1982). It is applicants contention that in view of this statement in the MPEP and cited case law the Rule 132 Declaration is legally accepted evidence. The Rule 132 Declaration is an "unequivocal statement" from the inventors asserting rights to the subject matter claimed in the application. There is no evidence contradicting the Declarants' claim of inventorship. Therefore, the requirements enunciated in the MPEP (cited in this section) has been met and U.S. Patent 6,775,284 B1 (Calvignac) is no longer prior art.

Claims 3, 6, 8, 10, 12 and 13 are objected to because of informalities set forth under section 3 of the office action. For brevity, informalities which the Examiner found are not repeated. However, applicants have reviewed the informalities in detail and have amended the claims to comply with suggestions set forth by the Examiner.

Claims 1-3, 5-6, 8-9, 11-12, 19, and 21-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Calvignac et al (US Patent No. 6,775,284 B1).

In response, to this rejection applicants restate their position that the Rule 132 Declaration submitted are sufficient to remove this reference. The argument set forth above relative to this issue is applicable and incorporated herein by reference.

Even if Calvignac is deemed prior art[1], it is applicants contention that Calvignac does not anticipate the claims as set forth above. In order for a reference to anticipate a claim every element and feature of the claim must be shown in a single reference. Applying this principle to the case and applicants contend Calvignac does not teach the combination of a header having code for identifying a beginning address of picocode instructions stored in said egress processor and data, generated by said ingress processor, to be used as required by said pico instruction being executed. This combination provides the ability for the intra-switch frame header to pass to the egress processor not only the starting instruction information but, also, data which may have been previously determined by the ingress processor. In essence, this combination allows the egress processor

[1]A proposition to which applicants do not agree.

to use the information already processed by ingress processor. As a consequence the throughput of data is enhanced. See applicants' specification Page 7, line 9 to Page 8, line 10. Because Calvignac et al does not suggest or teach this combination in a header or otherwise the claims as amended above are not anticipated by the reference. In fact, it should be noted that Calvignac does not teach forming a header with either one of the combinations (i.e. starting address and calculated data) in the ingress processor to be used in the egress processor. Instead, Calvignac et al disclose a processing complex without identifying specific jobs which is done by the egress or ingress processor. Therefore, the claims are not anticipated.

Claims 1-2, 5-6, 8, and 11-24 are rejected less than 35 U.S.C. 102(e) as being anticipated by Gallo et at (US Patent No. 6,760,776 B1).

In response applicants respectfully disagree with the Examiner and argue the same combination of elements argue above distinguishing the claims from Calvignac et al also distinguish the claim from Gallo et al. In fact, with respect to Gallo et al reference only the limitation of "code for identifying a beginning address of picocode instructions store in said egress processor" is sufficient to distinguish the claimed invention from Gallo et al reference. In Gallo et al the modification to the frame specified layer type only and not the beginning of instruction for processing as set forth in the claims. See column 4 lines 35-56. As a consequence Gallo reference teaches a different invention and has nothing in it that would render the claim invention obvious much less anticipate it.

Claims 4, 7, and 10 are allowed and is not address further in this document.

Newly added claims 25-38 call for "executing processing of a frame beginning at a processor execution level determined from a port configuration entry of the interface of the port said frame was received if a configuration bit of said egress processor indicates that the hardware classifier has been disabled". This the Examiner admits is not in the prior art. See office action mailed on 09/21/2004, page 7 and 8. As a result of this admission the newly added claims are patentable over the art of record.

It is believed that the present amendment answers all the issues raised by the Examiner. Reconsideration is hereby requested and an early allowance of all the claims is solicited.

Respectfully Submitted,

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